***THE HON'BLE SRI JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION NO : 230 of 2005**

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% 24.01.2005

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Between:

Smt. Yarlagadda Kanaka Durga, W/o late Veera Swamy and others.

**... PETITIONERS**

AND

1. The Assistant Commissioner, Endowments Department, Vijayawada and another.

**...RESPONDENTS**

! COUNSEL FOR THE PETITIOENR: SMT.A.ANASUYA

^ COUNSEL FOR THE RESPONDENT NO.1: G.P.for Endowments

< Gist:

> Head Note:

? CITATIONS:

IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

MONDAY, THE TWENTY FOURTH DAY OF JANUARY
TWO THOUSAND AND FIVE

PRESENT

**THE HON'BLE MR JUSTICE L.NARASIMHA REDDY**

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**WRIT PETITION NO : 230 of 2005**

Between:

1 Smt. Yarlagadda Kanaka Durga, W/o Late Veera Swamy,
2 Sri Yarlagadda Venkata Satyanarayana, S/o Neelachalam,
3 Sri Yarlagadda Ramamohan Rao, S/o Neelachalam,
4 Sri Yarlagadda Krishna Mohan Rao, S/o Neelachalam,
5 Sri Yarlagadda Chandra Kumar, S/o Neelachalam,
6 Sri Yarlagadda Kalyan Kumar, S/o Late Veera Swamy,
7 Sri Yarlagadda Praveen Kumar, S/o Venkata Satyanarayana,
8 Sri Yarlagadda Anil Kumar, S/o Venkata Satyanarayana,
All R/o 19-101. Chilakalapudi, Machilipatnam, Krishna District.

**..... PETITIONERS**

AND

1 The Assistant Commissioner, Endowments Department, Vijayawada.
2 The Executive Officer, Sri Venkateswara Swamy vari Devasthanam, Batchupet,

Machilipatnam, Krishna District.

**.....RESPONDENTS**

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court may be pleased to issue a Writ or Writs or order or direction more particularly in the nature of Writ of mandamus by declaring the orders passed by the Assistant Commissioner, Endowments, Vijayawada vide Proceedings D.Dis.No. A2/4183/03 dated 17-12-2004, is illegal, arbitrary and violative of principles of natural justice, and direct the first respondent to pass appropriate orders after considering the documents submitted by the petitioners herein and declare the petitioners as landless poor persons and pass orders.

**Counsel for the Petitioner:SMT.A.ANASUYA**

**Counsel for the Respondent 1: GP FOR ENDOWMENTS**

**The Court, at the stage of admission, made the following :**

**ORDER:**

Petitioners challenge the order, dated 17.12.2004, passed by the Assistant Commissioner of Endowments, Vijayawada, the 1st respondent herein. Petitioners claim that an extent of 24 acres of land belonging to Sri Venkateswara Swamy Devasthanam, Batchupet, Machilipatnam, was leased in the year 1984-85, in favour of three of them, and thereafter, on account of the divisions in the family, partition took place. According to them, as on today, each of them is in enjoyment of three acres of land and are paying rents regularly. They state that they submitted applications before the 1st respondent to declare them as landless poor as defined under explanation to Section 82 of the A.P. Charitable and Hindu Religious Institutions and Endowments Act, 1987, (for short 'the Act'), and he passed the impugned order rejecting their claim without giving them an opportunity and contrary to the record.

Heard the learned counsel for the petitioners and the learned Government pleader for Endowments.

Under Section 82 of the Act, tenancy, in respect of agricultural lands belonging to religious institutions and endowments, stand terminated. No further proceedings are required to be initiated for eviction of the tenants of such lands. The persons, who are landless poor, as defined under explanation to that Section, are conferred with the benefit of purchasing the lands under their possession, on a consideration of

two-third's market value, in case, the temple or institution intends to sell the same. It was, in this context, that the petitioners filed applications before the 1st respondent.

A Division Bench of the this Court in W.P.No.1302 of 2003 held that for the purpose of determining the status of a tenant as landless poor, the extent leased to the lessee, when the lease was granted has to be taken into account and subsequent partition or other arrangements in the family of the lessee are of no consequence. It is not in dispute that the lease, in respect of the lands in question, was granted in the year 1984, for a period of three years, in favour of three persons. Each person was granted lease, in respect of eight acres of wet-land. Even if there was subsequent division in the families of the lessees, it shall have no impact, in the matter of determination of the status of the lessees.

Assuming that there is any implied lease in favour of eight petitioners herein, it is evident that each is in possession of three acres of land. The copy of the Adangal submitted by the learned counsel for the petitioners, indicates that the classification of the land is 'wet'. According to the explanation, the extents prescribed for recognition of a tenant as landless poor, are 2.5 acres of wet land or 5 acres of dry land. From this point of view also, the claim of the petitioners cannot be accepted. The Assistant Commissioner has also taken into account the financial status of the petitioners, in the context of their holding properties in the urban areas. Therefore, this Court is not inclined to interfere with the order of the 1st respondent.

The writ petition is accordingly dismissed. This, however, does not preclude the petitioners from availing the right of appeal against the impugned order. There shall be no order as to costs.

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(L.NARASIMHA REDDY,J)

Date: 24-01-2005

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To

1 The Assistant Commissioner, Endowments Department, Vijayawada.
2 The Executive Officer, Sri Venkateswara Swamy vari Devasthanam, Batchupet, Machilipatnam, Krishna District.

3. 2CCs to the Government Pleader for Endowments, High Court of A.P., Hyderabad.(OUT)

4. 2CD copies